

### **REMARKS**

The October 18, 2006 Final Action objected to claim 10 and rejected all claims pending in the application under §102. Applicant submitted an Amendment and Response to Final Action under §1.116 on January 16, 2007. On January 30, 2007, the Examiner issued an Advisory Action refusing to enter the amendment stating the proposed amended claims would require further consideration and search. Applicant herewith files a request for continued examination (RCE) and re-submits the amendment for the Examiner's consideration. The present Amendment cancels claims 3 and 10, amends claims 1 and 14, and submits arguments for the Examiner's consideration. Also accompanying this Amendment and Response is a Declaration under §1.131 to establish a priority of invention in this application at a date prior to at least one of the cited §102 references. Applicant respectfully requests that the Examiner reconsider the objection and withdraw the rejections.

### **Claim Objection**

The Action objects to claim 10. Applicant herein cancels claim 10 and requests the Examiner to reconsider the objection.

### **Claim Rejections –35 USC§102**

All claims, 1-18, stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Application Publication. No. 2004/0196963 to Appelman et al. and U.S. Application Publication No. 2002/0034281 to Isaacs et al. For the following reasons Applicant respectfully traverses these rejections.

### **Appelman et al.**

The Appelman Patent Application was filed on December 30, 2003 and claims priority under 35 U.S.C. §119(e) to Appelman Provisional Application No. 60/459,273 filed on April 2, 2003. Applicant's application under examination was filed on October 29, 2003, prior to the Appelman Patent Application filing date but after the Provisional filing dates.

In Applicant's prior responses, Applicant has argued that the Appelman Patent Application includes additional subject matter that was not included in the Appelman

Provisional Application and therefore is not supported by the earlier filing date of the Provisional. Additionally, Applicant has argued that the Appleman Patent Application fails to disclose each and every element of Applicant's invention as claimed.

In the desire of swift prosecution of Applicant's patent application, Applicant submits herewith a Declaration under 37 CFR §1.131 with accompanying documents to establish a priority of invention in this application at a date prior to April 2, 2003, the effective filing date of the Appleman Provisional Application. As such, Applicant submits the enclosed Declaration and documents overcome the Section 102(e) rejection by way of swearing behind the Appleman reference.

**Isaacs et al.**

All claims, 1-18, stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Application Publication No. 2002/0034281 to Isaacs et al. For the reasons stated herein, Applicant respectfully traverses.

In general, Isaacs discloses a communication system among distributed users who can send and receive short sound earcons or sound instant messages which are associated with specific conversational messages [0007]. The short communicative phrases may be any conversational message such as "Hi" or "Are you ready to go?". The alerts are earcons or melodies made up of short strings of notes. For example, a short string of six notes could be construed to mean "Are you ready to go?" [0026]. Each user will be provided with a basic set of standardized earcons which have predefined meaning such that users may readily communicate with one another using these earcons. Additionally, users may create new earcons but it is each users responsibility to learn the other user's earcons in order to effectively communicate using these sounds [0026]. Isaacs discloses using personal audible identifiers that are selected or created by users to identify the source of communications to other users over the network (Abstract). For example, a user selects a personal sound identifier which other users will hear when that user comes online or sends an instant message to another user [0012]. System users may be alerted as to the state change of other users in the system, such as when a certain user becomes "active" or changes from "active" to "idle." Such alerts are provided via sound-based alerts which will indicate

the state changes to the users and may be followed by the user's personal sound identifier which identifies the user who has changed their respective state [0036].

Applicant discloses systems and methods to provide status alerts to users, unbeknownst to the contact to whom the status alert pertains, when a reportable event occurs. In other words, the user selects the contact(s) that the user wants to receive status alerts for and those contacts do not have to do or perform anything, such as select a personal sound identifier. In fact, the contact does not even know that alerts are being sent to the user. The user can also selectively control the level of status information desired for each contact. Additionally, the status alert includes a call-control option so that the user can immediately respond to the status alert with a telecommunication function (e.g., call the contact).

In contrast to Applicant's claims, Isaacs requires the contacts on the network to select a personal sound identifier that plays to the user when the contact initiates communication with the user. Thus, the audible alert is not received by the user unbeknownst to the contact because the contact personally selects the audible identifier and initiates communication before the alert is played. Moreover, Isaacs requires that every contact on the network learn the sound messages or earcons of every other contact in order to communicate effectively. Thus, alerts are not received unbeknownst to the contact because in order to communicate both the contact and the user must know and learn each other's respective earcons [0026]. Additionally, Isaacs is designed as a two-way communication system (hence, the requirement that every user *learn* the earcons of every other user) and would not function properly if there were only one recipient.

Further in contrast to Applicant's claims, Isaacs fails to disclose a viewable call-control option received simultaneous with the alert. In fact, Isaacs discloses audible alerts and fails to disclose any viewable alert. Isaacs does disclose using text instant messages but these are the actual conversational messages being sent to and from the network users, not textual alerts having an informational status message pertaining to the contact. In Isaacs, the earcon is a message representative of a conversational message via sound and may include another sound identifier appended to the

message to indicate the source of the message. Isaacs does not disclose an alert comprising informational status messages pertaining to the contact and a viewable call control option that causes a telecommunication function pertaining to the contact to occur. Just to avoid any future confusion, Isaacs does disclose providing status indicators, but these are to indicate the status of the message itself and not the status of the contact or associated endpoint. For example, an acknowledgement to the sender confirms the status of the message, such as "message pending" or "message received" by the recipient [0013].


Applicant respectfully submits that Isaacs fails to teach each and every element of Applicant's claims. Accordingly, Applicant requests that the Examiner reconsider the cited reference and withdraw the §102 rejections to claims 1-18.

### **CONCLUSION**

Applicant respectfully requests withdrawal of the §102 rejections and issuance of a timely Notice of Allowance. Should the Examiner wish to discuss any of the above in greater detail then the Examiner is invited to contact the undersigned at the Examiner's convenience.

Respectfully submitted,  
Inter-Tel (Delaware), Inc.

Date: February 9, 2007

By:   
Michelle R. Whittington, Esq.  
Intellectual Property Counsel  
Inter-Tel (Delaware), Inc.  
Reg. No. 43,844

**INTER-TEL (DELAWARE), INC.**  
7300 W. Boston St.  
Chandler, AZ 85226  
Direct: (480) 961-9000 x21352  
Facsimile: (480) 961-8073  
Email: michelle\_whittington@inter-tel.com